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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/801,014	03/15/2004	John Stewart Wenstrand	10040095-1	1019

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AGILENT TECHNOLOGIES, INC.  
Legal Department, DL429  
Intellectual Property Administration  
P.O. Box 7599  
Loveland, CO 80537-0599

EXAMINER
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PYO, KEVIN K

ART UNIT	PAPER NUMBER
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2878

DATE MAILED: 10/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/801,014

Applicant(s)

WENSTRAND ET AL.

Examiner

Kevin Pyo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-55 is/are pending in the application.
- 4a) Of the above claim(s) 9, 10, 20-43 and 52-55 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8, 11-19 and 44-51 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                                    |                                                                             |
|----------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____                                                |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>3/15/2005</u>                                                             | 6) <input type="checkbox"/> Other: _____                                    |

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1. Applicant's election of claims 1-20 and 44-51 is acknowledged. However, the examiner notes the inadvertent inclusion of claims 9, 10 and 20 in Group I. Claims 9, 10 and 20 are directed to the details of a second type or a third type of a control system and should have been included in Group II or III. Accordingly, claims 9, 10 and 20 will be withdrawn from consideration.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 3-6, 11, 12, 44 and 46-48 are rejected under 35 U.S.C. 102(b) as being anticipated by Nielsen et al (5,835,083).

Regarding claims 1 and 44, Nielsen et al shows in Fig.2B the following elements of applicant's invention: a) an imager (290, in view of col.1, lines 39-40, the Dual Purkinje Image Eyetracker can be utilized in the device of Nielsen) and eye detection processing for detecting light received by the imager from a human eye, said eye detection processing being configured to generate an output indicative of determination of detection said human eye (col.2, lines 29-30); and a controller (255) enabled to switch said device among a plurality of power consumption states in response to said output of said eye detection processing, said controller being configured to execute based on a first conditional response in which said device is switched from

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a power up state to a lower power consumption state upon passage of a first time period without detecting a human eye (abstract, lines 1-4).

Regarding claims 3 and 46, Nielsen et al discloses at least three power consumption states (power down, power save and power up) and discloses that an eyetracker is used to control power to an electrical device such as a computer display screen so that power consumption is reduced when a user's eyes and therefore a user's attention are not directed to the device (abstract, lines 1-4).

Regarding claims 4 and 47, Nielsen et al shows in Fig.3 the device is switched from power save state (310) to power down state (330).

Regarding claims 5 and 48, Nielsen et al shows in Fig.3 the device is switched from power save state (310) to power up state (320).

Regarding claim 6, Nielsen et al shows in Fig.3 the device is switched from power down state (330) to power up state (320).

Regarding claims 11 and 12, the limitations therein are shown in Fig.2A.

4. Claims 1, 2, 13-17, 44, 45, 49 and 50 are rejected under 35 U.S.C. 102(b) as being anticipated by Ando (4,768,088).

Regarding claims 1 and 44, Ando shows in Figs.1a-1c the following elements of applicant's invention: a) an imager (3, col.2, lines 4-7) and eye detection processing for detecting light received by the imager from a human eye, said eye detection processing being configured to generate an output indicative of determination of detection said human eye (col.2, lines 8-15); and a controller (6) enabled to switch said device among a plurality of power consumption states

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in response to said output of said eye detection processing, said controller being configured to execute based on a second conditional response in which said device is switched from a power up state upon detection of a human eye (col.5, lines 2-34).

Regarding claims 2 and 45, the limitation therein is disclosed in col.3, lines 20-23.

Regarding claims 13-17, 49 and 50, Ando shows in Figs.3e-3g the operation of electrical devices of Ando is controlled on the basis of results of detections of an eye blinking pattern (col.14, line 33-col.16, line 49).

### *Claim Rejections - 35 USC § 103*

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 7, 8, 18, 19 and 51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nielsen et al.

Regarding claims 7 and 8, Nielsen et al discloses in col.6, lines 40-46 a first time period is set by an user. The specific scheme utilized to adjust a first time period would have been obvious to one of ordinary skill in the art in view of meeting different design requirements and the desired performance.

Regarding claims 18 and 51, the feature of recognizing a correlation between a particular person and a detected eye and controlling a device based on the recognition is well known in the art and it would have been obvious to one of ordinary skill in the art to utilize the recited

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correlation feature in Nielsen in view of the desire to provide the ability to identify an user operating the device.

Regarding claim 19, the specific configuration of sampling an imager is well known and would have been obvious to one of ordinary skill in the art in view of achieving the desired performance.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin Pyo whose telephone number is (571) 272-2445. The examiner can normally be reached on Mon-Fri (with flexible hour), First Mon. off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David P. Porta can be reached on (571) 272-2444. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Kevin Pyo  
Primary Examiner  
Art Unit 2878

Pkk  
10/12/05